

# FRIER LEVITT

A T T O R N E Y S A T L A W

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Attorneys for Third-Party Defendant, Consolidated Children's Apparel

RACHEL ADJMI,

Plaintiff,

v.

SOVEREIGN BANK and SOLOMON  
DWEK,

Defendants.

SOVEREIGN BANK,

Counterclaim, Cross-claim and  
Third-Party Plaintiff,

v.

RACHEL ADJMI, in her individual capacity  
and as executrix of the estate of Jack Adjmi;  
JACK ADJMI, deceased, his heirs, devisees and  
personal representatives, and his their or any of  
their successors in right, title and interest;  
STATE OF NEW YORK; UNITED STATES  
OF AMERICA; SUN NATIONAL BANK, as  
Successor by Merger to COMMUNITY BANK  
OF NEW JERSEY, a New Jersey banking  
corporation; ANSELL TRUST; LIBERTY  
MEDICAL; DEAL YESHIVA, INC;  
UNKNOWN TENANTS 1-10;  
CONSOLIDATED CHILDREN'S  
APPAREL, INC.; AMY F. ANNECHARICO;  
JOHN DOES 1-10; ABC CORPORATIONS  
1-10; and SOLOMON DWEK,

Counterclaim, Cross-claim and  
Third-Party Defendants.

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY

Chapter 11

Case No: 07-11757 (KCF)

Adversary No: 07-01555 (KCF)

**NOTICE OF MOTION TO DISMISS THE  
COMPLAINT OF THIRD-PARTY  
PLAINTIFF, SOVEREIGN BANK, AND  
FOR SANCTIONS**

**TO:** Louis DeLuccia, Esq.  
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**COUNSEL:**

Please take notice that on Monday, November 17, 2008, at 10:00 a.m., or as soon thereafter as counsel can be heard, before the Honorable Kathryn C. Ferguson, United States Bankruptcy Court, at the Clarkson S. Fisher United States Courthouse, 401 East State Street, Trenton, New Jersey, the undersigned will move for an order dismissing the complaint of third-party plaintiff, Sovereign Bank, pursuant to F.R.C.P. Rule 37(b)(2)(v) and Bankruptcy Rule 7037 and for sanctions pursuant to F.R.C.P. 37(d) and for such other relief as this Court deems proper.

**PLEASE TAKE FURTHER NOTICE**, that at the time this matter is heard, we shall rely upon the Certification of Jonathan E. Levitt, Esq., made a part hereof.

**PLEASE TAKE FURTHER NOTICE** that pursuant to Local Rule 9013-1(d), any opposition to the Motion shall be filed with the Court and served upon counsel at least seven (7) days before the return date.

**PLEASE TAKE FURTHER NOTICE** that a proposed form of Order is submitted herewith.

**PLEASE TAKE FURTHER NOTICE** that third party defendant requests oral argument only in the event opposition to this motion is filed.

**FRIER & LEVITT, LLC**  
Attorneys for Third-Party Defendant

BY: /s/ Jonathan E. Levitt  
Jonathan E. Levitt, Esq.

Dated: October 28, 2008